REMARKS

The present application includes pending claims 1-31, all of which remain rejected. By this Amendment, claims 2, 12, and 22 have been amended as set forth above. The Applicants respectfully submit that the claims define patentable subject matter.

Claims 2, 12, and 22 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. These claims have been amended as set forth above to overcome this rejection.

Claims 1-5, 8-15, 18-25, and 28-31 remain rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Application Publication 2003/0158928 ("Knox"). Claims 6-7, 16-17, and 26-27 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Knox in view of United States Patent No. 2004/0064575 ("Rasheed"). The Applicants respectfully traverse these rejections at least for the reasons set forth previously during prosecution and the following:

I.   Knox Does Not Anticipate Claims 1-5, 8-15, 18-25, And 28-31

The Applicants first turn to the rejection of claims 1-5, 8-15, 18-25, and 28-31 as being anticipated by Knox. The Office Action responds to the Applicants' previous Amendment by stating the following:

> Knox does disclose about the user interfaces (see figs. 4-9), e.g., "*display*", which provides functions for remote user's selecting as disclosed in page 6, para [0048], including for the selecting bandwidth as disclosed in page 5, para [0041], bit rate as disclosed in page 6, para [0043], cost and quality of service as disclosed in page 6, para [0046]; page 7, paras [0050-

> 0051]' and where the server receives the request from
> end user for distributing the files as disclosed in page
> 4, para [0033]; pages 5-6, paras [0043, 0046-0047,
> 0049]; page 7; paras [0050-0051]. Therefore,
> Examiner concludes that Knox teaches the arguable
> features.

See December 22, 2005 Office Action at page 8. The Applicants respectfully

disagree.

As shown above, in an attempt to counter the Applicants' previous

remarks regarding claims 1, 11, and 21, the Office Action relies on Figures 4-9,

and Paragraphs [0033], [0041], [0043], and [0046]-[0051] of Knox. Initially, the

Office Action seemingly relies on Figures 4-9, merely to show a "display."

However, the Applicants respectfully submit that these Figures do not teach or

suggest "causing a display of a plurality of quality of service options

corresponding to at least one media file for selection by a remote user" and

"receiving a quality of service selection specifying at least one of said plurality of

quality of service options," as recited in claims of the present application

Paragraph [0033] of Knox states the following:

> To this end, FIG. 1 depicts a number of different web
> sites 17. A web site, for the purpose of this
> description, will be understood as a directory or
> several directories of content, including optionally
> executable content, that is associated with a network
> address and that is to be delivered over the Internet
> either as data content or a service. In FIG. 1, the four
> different web sites are shown as having a set of files
> in this case, each web site having three files.
> However, this is just an arbitrary number of files
> shown for the purpose of illustrating the structure and
> operation of the distributed file system 26. For the
> purpose of this description, each of the three depicted
> files for each web site is representative of a streaming

media asset. A streaming media asset typically would be an Mpeg file, AVI file, or some other type of audio, visual or audiovisual file that has been translated into a streaming format such as Real Media, Windows Media or QuickTime. The software transcoders needed for performing this type of translation are available and any suitable software for performing this translation may be employed to generate the files depicted in the web site 17 of FIG. 1. The upload, storage, editing and check-in processes of the distributed file system 26 enable a client 12 to upload a data file from one of the client's 12 and into the respective web site associated with that client 12. Additionally, the distributed file system includes processes that allow the client to manipulate characteristics of that data file, wherein the characteristics that are being manipulated are relevant to a streaming media assets. The manipulation of this data will be described in greater detail below. Additionally, to make the delivery of the streaming media assets more efficient, the system 26 copies, or replicates, the streaming media asset and distributes the replicated streaming media assets across a support system capable of providing multiple hosts for delivering the streaming media asset to a requesting user. In the embodiment depicted in FIG. 1, the support systems for the distribution of replicated data files can include a set of geographically distributed servers, depicted by element 19 of FIG. 1, or from partner networks, such as the Akamai network depicted by element 21 of FIG. 1.

This portion of Knox merely discloses general concepts of uploading a file, manipulating characteristics of a file, and delivering a streaming media asset. The Applicants respectfully submit, however, that there is nothing in this paragraph that teaches or suggests "causing a display of a plurality of quality of service options corresponding to at least one media file for selection by a remote

user" and "receiving a quality of service selection specifying at least one of said

plurality of quality of service options."

Moving on, Paragraph [0041] of Knox reads as follows:

> In operation, the distributed file system 26 allows a user to select a content file 28 to upload to the staging area 14 that will be provided by the distributed file system 26. Typically the client 12 does an FTP upload to the distributed file system 26. Upon detecting the request to FTP a file 28, the web server 13 servicing the customer 12 determines the location of the customer 12 and finds the DFS node 14A or 14B that is closest to, has sufficient capacity, or otherwise is best suited or adequately suited to serve the needs of the customer 12. Upon determining the proper DFS node, the web interface creates an account on the node. The account acts as a staging area 14 from which the file 25 may be replicated, distributed, and checked into the distributed file system 26. For example, once the web interface has identified the proper node 14A or 14B and created an account for the customer 12, a window is presented to the customer 12, through which the customer 12 can select the file 28 to be uploaded. Once the file 28 is uploaded to the staging area 14, meta data is identified from processing the file. The meta data can include the name of the file, its length, its file type, the bandwidth for which it was created, start and stop points, and any other suitable meta data that may be selected from the file. The file 28 and its meta data is then replicated and for each replicated file a unique signature id is created and associated with that physical file. In one embodiment, the unique id is a 128-bit number that is created using a hashing technique that, in one practice hashes the user identification, file name and other information. However, those of ordinary skill in the art will understand that any suitable technique may be employed for creating a unique id for a physical file, and any suitable technique may be employed.

This portion of Knox discloses that a user can select a file, which may include

various components, to upload through a window. Much like Paragraph [0033],

however, this portion of Knox does not teach or suggest "causing a display of a

plurality of quality of service options corresponding to at least one media file for

selection by a remote user" and "receiving a quality of service selection

specifying at least one of said plurality of quality of service options."

Next, Paragraph [0043] of Knox discloses the following:

> Once the accounts are created the process 40
> proceeds to step 48 wherein the user is allowed to
> select a file to be uploaded. In one practice, the
> process 40 allows the user to access the distributed
> files system 26 through a web interface. In this
> practice, the process 40 can employ the web
> connection between the customer and the web server
> of the host to provide graphical user interfaces to the
> customer. For example, the process 40 may employ
> the web connection to create user interfaces that
> allow the user to upload files to the staging area 14,
> check the files in, and browse the files that are
> currently stored in the web site. Such user interfaces
> are depicted in FIGS. 4 and 5. For example, FIG. 4
> depicts a user interface that presents the customer
> with a number of optional services such FTP upload
> to staging area, check in files, browse files, file
> search, file recovery, and user account administration
> features. Each depicted user interface may be a
> standard HTML page that employs HTML forms and
> controls to collect input from the customer. FIG. 5
> depicts a graphical user interface, also an HTML
> page, that facilitates file transfer between the client
> system and the host. To this end the HTML page
> allows the user to drag a file icon onto the screen of
> the graphical user interface. The graphical user
> interface collects the file and automatically begins to
> upload the file from the client to the host system. After
> step 48, the process 40 proceeds to step 50 wherein
> the data file uploaded to the host system is processed
> to determine, or identify meta data associated with

> that file. In this step, the process 40 can execute a computer process that is capable of analyzing the contents of the uploaded data file. For example, the file structure of the uploaded data file may be known to the process and may be identified to that process by the file extension associate with the uploaded file. For example, a *.rm file indicates a file format compatible with the Real Media file structure. The process 40 can include logic that understands the file structure of the *.rm format. The file structure typically includes information regarding the title of the file, the size of the file, an associated codec, bit rate and other characteristics of that file.

This portion of Knox discloses that a user may gain access to a distributed file system through a web interface, which may include a graphical user interface. One user interface may include optional services. Similar to Paragraphs [0033] and [0041], however, this portion of Knox does not teach or suggest "causing a display of a plurality of quality of service options corresponding to at least one media file for selection by a remote user" and "receiving a quality of service selection specifying at least one of said plurality of quality of service options."

Paragraph [0046] states the following:

> When determining the number of replicated files to make, as well as where these replicated files are to be located, the systems described herein may employ a **profile** that is set up for each file uploaded by the customer. The profile may have **predetermined characteristics** wherein the selected predetermined characteristics for each file turns on the price, or selected quality of service the customer has chosen for that file, or for their service in general. Thus a customer wanting maximum service from the systems described herein may have a **profile** that indicates a high number of replicated files is to be created and these files are to be distributed across the network including onto servers that are part of third-party

customer distribution networks (CDN), such as the
Akamai network.

In general, this portion of Knox discloses profiles used for various file types that
are configured before each individual file is chosen. While files are distributed
based on the pre-configured profile, this portion of Knox, much line Paragraphs
[0033], [0041], and [0043] does not teach or suggest "causing a display of a
plurality of quality of service options corresponding to at least one media file for
selection by a remote user" and "receiving a quality of service selection
specifying at least one of said plurality of quality of service option," as recited in
the claims of the present application.

Turning now to Paragraph [0047] of Knox, as discussed above, the profile
is a general set of characteristics that apply to files uploaded subsequent to
configuration of the profile.

> Based on the profile, user information, and perhaps
> historical data of earlier similar requests and
> achieved performance, the server may select the
> best node to serve the client from, and will generate
> a redirection link directing the client to make a
> request to the location best suited to server that
> customer. Thus, the client should receive service
> according to the profile selected by the customer
> website.

Id. at Paragraph [0047]. Again, Knox discloses profiles that **are configured**
before selection of files. That is, a user configures a preferred profile before
selecting particular files. The pre-configured profile is then applied to
subsequently-selected files. Knox does not, however, teach or suggest "causing
a display of a plurality of quality of service options corresponding to at least one

16

media file for selection by a remote user" and "receiving a quality of service

selection specifying at least one of said plurality of quality of service options," as

recited in the claims of the present application.

Paragraph [0048] of Knox states the following:

> Turning to FIGS. 7-9, it can be seen that the above described distributed file system also provides additional functionality to a user for helping the user manage their web site. For example, FIG. 7 depicts a user interface presented by the system 26 to the client 12 through the browser, that allows the user to browse the different files, and the meta-data associated with those files, that are stored on the user's web site 17. Once the user is satisfied that the meta-data and other characteristics of the stored files are correct, the user can initiate the check-in operation described above with reference to FIG. 3. A similar interface is presented in FIG. 8, however in this interface the user is provided with a play control 70 that allows the user to play the streaming media file through the appropriate player. This allows the user to verify that the file is correct and operating properly, without requiring the user to log into the web site separately or download the file to the client 12 for examination. FIG. 9 depicts a further interface that allows the user to identify which of the content distribution networks the user would like to select for deploying and distributing the streaming media asset. As can be seen in this embodiment, the user can select through the checkbox controls 80, one or more of a plurality of available content distribution networks, similar to how meta-data characteristics are selected. The process 40 of FIG. 3 can process the user selections and register the user's content with the selected content networks for the delivery thereby.

While this portion of Knox discloses that a user may identify "which of the content

distribution networks... to select for deploying and distributing the streaming

media asset," much like Paragraphs [0033], [0041], [0043], [0046], and [0047],

this portion of Knox does not teach the relevant claim limitations noted above.

Next, Paragraph [0049] of Knox states the following:

> Turning to FIG. 10, it may be understood that a quality of service application may also be provided. Thus the file system 26 described herein can provide tools for monitoring the "Quality of Service" (QOS) for streamed content. Streamed content is more sensitive to quality of service issues than static content. Accordingly, customers will be far more interested in the quality of service provided across the Internet, or other network, when streamed content is being delivered.

This portion of Knox merely discloses that Quality of Service may be monitored,

which is not the same as "causing a display of a plurality of quality of service

options corresponding to at least one media file for **selection** by a remote user"

and "receiving a **quality of service selection** specifying at least one of said

plurality of quality of service options," as recited in the claims of the present

application.   Similar to Paragraphs [0033], [0041], [0043], [0046], [0047], and

[0048], this portion of Knox does not teach the relevant claim limitations noted

above.

Paragraph [0050] of Knox states the following:

> To address this issue, the file system 26 may optionally include a quality of service ("QOS") tool or process that provides bi-directional access to mission critical data related to the intelligent management of streaming media content. In particular, a customer may employ the QOS process to access mission critical data, such as the quality of service being provided to the customer's clientele, when the clientele are located at different locations on the network. To this end, the QOS process communicates

with a plurality of monitors across the network. A typical monitor may comprise a Linux Workstation running an agent that simulates the actions of several common media players, such as the Windows Media player and QuickTime Player. The monitor will gather stream-specific data from many different locations throughout the network and transfer the information back to a central depository where it is parsed, processed, and made available for client access and review. The client employing a web interface may access an account provided by the QOS process where the client can view and understand the quality of service that is being achieved for their streams traveling across different paths over the network. Additionally, the distributed file system can use the quality of service information to determine what content will be or has been provided over what paths on the Internet, as well as for selecting paths, networks, or characteristics of paths, for the delivery of content. In this way, the host can offer clients the right to purchase hosting services that have different prices for different subscribed or delivered quality of service.

As shown above, Knox states that "the host can offer clients the right to purchase hosting services that have different prices for different subscribed or delivered quality of service." *See id.* at Paragraph [0050]. While Knox notes that the host **can offer clients the right to purchase** hosting services, Knox does not teach or suggest "causing a display of a plurality of quality of service options corresponding to at least one media file for selection by a remote user" and "receiving a quality of service selection specifying at least one of said plurality of quality of service options," as recited in the claims of the present application.

Finally, Paragraph [0051] of Knox states the following:

For example, FIG. 10 depicts that a plurality of agents may be distributed across the data network at certain locations. These agents may imitate the operation of

19

a Windows Media Player, a Real Media Player, or some other type of player. The agents can determine the type of response that they are receiving at that location of the network, and may return a collected information to a central repository that may optionally be maintained at the servers 30. Additionally, and optionally, the quality of service application may also collect the logs from the servers that have been streaming data to the clients. These logs contain information about the success that was achieved when delivering data to an end user station such as the depicted end user stations 40. Accordingly, the QOS application creates a data base of information about the quality of service that has been provided to a customer. In one optional practice, the billing process for a customer turns, in part, on the quality of service that has been provided to that customer during the delivery of streamed content. In this way, the platform described herein may deliver content to a user at a selected cost to that user.

As noted above, the Quality of Service application is merely a tool for monitoring the quality of service. In particular, as shown above in Paragraph [0051], the "QOS application creates a data base of information about the quality of service that has been provided to a customer." Similar to Paragraphs [0033], [0041], [0043[, and [0046] – [0050], however, this portion of Knox does not teach or suggest "causing a display of a plurality of quality of service options corresponding to at least one media file for selection by a remote user" and "receiving a quality of service selection specifying at least one of said plurality of quality of service options," as recited in the claims of the present application.

As shown above, none of the portions relied upon by the Office Action (i.e., Figures 4-9, Paragraphs [0033], [0041], [0043], and [0046]- [0051]) teach or suggest the relevant claim limitations. Thus, at least for this reason, the

Applicants respectfully submit that the Office Action has not established a *prima facie* case of anticipation with respect to claims 1-5, 8-15, 18-25, and 28-31.

II.   **Knox Does Not Teach Or Suggest "Transfer Via At Least One Of A Media Guide, Channel Guide, And A Device Guide"**

In response to the Applicants' remarks regarding claims 5, 15, and 25, the Office Action states the following:

> Knox does disclose about the server, which receives the request from the end user as disclosed in figs. 7-9; and distributes the file as request (sic) as disclosed in page 5, para [0036]; page 6, para [0047]0048]. Therefore, Examiner concludes that Knox teaches the arguable features.

See December 22, 2005 Office Action at page 8. Thus, the Office Action relies on Paragraphs [0036], and [0047] – [0048] of Knox to reject these claims.

Paragraph [0036], however, states the following:

> For the depicted system, the customer content 12 is streamed content that is derived from a media source 22 and that is encoded by encoder 24 into a format, such as, for example, the Windows Media format or the Apple Quick Time format. The encoded data files are stored as the media-on-demand files 28 depicted in FIG. 2.

This portion of Knox merely discloses that content may be derived from a media source. It does not, however, teach or suggest "transfer via at least one of a **media guide, channel guide and a device guide**." A media source is not necessarily a media **guide**. Similarly, Paragraphs [0047]-[0048] (reproduced above) do not teach or suggest a media guide, channel guide and a device guide. "Checkbox controls," as recited in Paragraph [0048] are not necessarily a "media guide, channel guide, [or] a device guide."

The Applicants respectfully submit that Knox does not teach or suggest "transfer via at least one of a media guide, channel guide and a device guide." As noted above, the Office Action cites Figures 7-9 and Paragraph [0048] to support rejection of claims 5, 15, and 25. Figures 4-9 of Knox illustrate "user interface screens provided by the system of FIG. 1 for allowing a user to manage content on a website." *See* Knox at Paragraph [0024]. Figure 7 of Knox illustrates a "Destination Directory:/airplane", which shows filename, size, date, title/author/copyright, and file type. Figure 8 shows a similar directory, while Figure 9 seemingly shows specifics of the file. These Figures, however, do not teach or suggest "transfer via at least one of a media guide, channel guide and a device guide." Thus, at least for these reasons, the Applicants respectfully submit that the Office Action has not established a *prima facie* case of anticipation with respect to claims 5, 15, and 25.

III. The Proposed Combination Of Knox And Rasheed Does Not Render Claims 6-7, 16-17, And 26-27 Unpatentable

The Applicants next turn to the rejection of claims 6-7, 16-17, and 26-27 as being unpatentable over Knox in view of Rasheed. The Applicants respectfully submit that the combination of Knox and Rasheed does not render these claims unpatentable at least for the reasons discussed above.
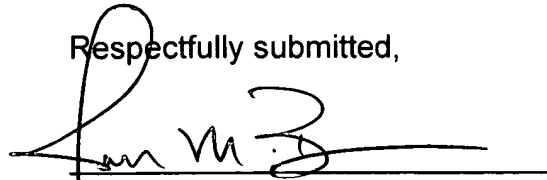
IV. Conclusion

The Applicants respectfully submit that the claims of the present application should be in condition for allowance at least for the reasons discussed above and request reconsideration of the claim rejections. If the

22

Examiner has any questions or the Applicants can be of any assistance, the

Examiner is invited to contact the Applicants. The Commissioner is authorized to

charge any necessary fees or credit any overpayment to the Deposit Account of

McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: <u>February 14, 2006</u>

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